

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:	§	
	§	
PASADENA SELF-STORAGE, LTD.,	§	CASE NO. 10-33790
	§	(Chapter 11)
Debtor.	§	

**DEBTOR'S OBJECTION TO CLAIM NO. 7  
FILED BY CITY NATIONAL BANK**

**This is an objection to your claim. The objecting party is asking the court to disallow the claim that you filed in this bankruptcy case. You should immediately contact the objecting party to resolve the dispute. If you do not reach an agreement, you must file a response to this objection and send a copy of your response to the objecting party within 21 days after the objection was served on you. Your response must state why the objection is not valid. If you do not file a response within 21 days after the objection was served on you, your claim may be disallowed.**

**A hearing has been set on this matter on December 16, 2010 at 1:30 p.m. in Courtroom 404, 515 Rusk, Houston, Texas 77002.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Pasadena Self-Storage, Ltd., Debtor and Debtor-in-Possession ("Debtor"), files this Objection to Claim No. 7 filed by City National Bank ("Claimant"), and in support thereof would show the Court as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion under title 28, sections 157 and 1334 of the United States Code. Venue is proper in this Court under title 28, sections 1408 and 1409. This is a core matter under title 28, section 157.

## **II. CHAPTER 11 PROCEEDINGS**

2. On May 4, 2010 (the “Petition Date”), Pasadena filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code.
3. No official committee of unsecured creditors has been established.
4. Debtor continues in possession of its property and continues to operate and manage its business as a debtor in possession under Bankruptcy Code sections 1107(a) and 1108. No official committee of unsecured creditors has been formed.

## **III. FACTUAL BACKGROUND**

5. Pasadena is a limited partnership formed under the Texas Revised Limited Partnership Act. The Debtor owns a self-storage facility located at the address of 6321 Spencer Highway, Pasadena, Texas 77505 (the “Property”).
6. On or about October 9, 2008, the Debtor executed a Promissory Note Secured by Deed of Trust (“Promissory Note”) payable to Imperial Capital Bank (“ICB” or “Bank”) in the principal amount of \$2,600,000.00. Concurrently, the Debtor executed a Deed of Trust, Fixture Filing, Assignment of Rents and Security Agreement (“Deed of Trust”) securing repayment of the Promissory Note in which the Debtor purportedly secured the debt with the Property and all rents and profits derived therefrom.

## **IV. CLAIM NO. 7**

7. On or about June 9, 2010, City National Bank (“CNB”) filed a Proof of Claim asserting a secured claim in the amount of \$2,779,960.49 (Claim No. 7) (the “Claim”). In support of the Claim, CNB attached as proof of its claim against the Debtor copies of the Promissory Note made payable to Imperial Capital Bank and the Deed of Trust executed for the benefit of Imperial Capital Bank.

### **V. CLAIM OBJECTION**

8. CNB's Claim wholly fails to evidence its ownership of the Promissory Note. The Promissory Note on its face is payable to Imperial Capital Bank. There is no endorsement or evidence of transfer of the Promissory Note by ICB to CNB. CNB's Claim wholly fails to evidence its ownership of the Promissory Note and the rights attendant thereto.

9. As the Promissory Note is payable to ICB, "negotiation requires transfer of possession of the instrument and its indorsement by the holder." Tex. Bus. & Com. Code § 3.201(b). CNB's Claim fails to assert any evidence of a negotiation, transfer, or indorsement of the Promissory Note. CNB's Claim fails to evidence its assertion that it is a transferee or holder in due course of the Promissory Note.

WHEREFORE, the Debtor respectfully requests that this Court enter an Order disallowing the Claim of CNB, and granting the Debtor such other and further relief as the Court may deem just and proper.

Dated: October 7, 2010.

Respectfully submitted,

By: /s/ Patrick D. Devine  
Patrick D. Devine  
State Bar No. 05662200  
Law Office of Patrick D. Devine  
5120 Woodway Dr., Suite 8002  
Houston, Texas 77056  
Phone: 832-251-2722  
Fax: 713-965-9173  
Email: pdevine@pdevinelaw.com

Attorneys for the Debtor

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Objection to Claim with a copy of the Claim has been served on the Claimant at the address disclosed in its proof of claim, City National Bank, c/o Michael J. Durrschmidt, Hirsch & Westheimer, PC, 700 Louisiana, Suite 2550, Houston, Texas 77002, and the United States Trustee, 515 Rusk Ave., Suite 3516, Houston, Texas 77002 via the Court's ecf notification system or via United States mail, postage prepaid, on this 7th day of October, 2010.

/s/ Patrick D. Devine  
Patrick D. Devine